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### **Handbook of Research on International Consumer Law. Ed by Geraint Howells, Iain Ramsay and Thomas Wilhelmsson with David Kraft Cheltenham**

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problems and practicalities of contract formation, *Contract Formation: Law and Practice* is well worth reading.

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**HANDBOOK OF RESEARCH ON INTERNATIONAL CONSUMER LAW. Ed by Geraint Howells, Iain Ramsay and Thomas Wilhelmsson with David Kraft**

Cheltenham: Edward Elgar Publishing ([www.e-elgar.co.uk](http://www.e-elgar.co.uk)), Research Handbooks in International Law, 2010. ix + 592 pp. ISBN 9781847201287. £175.

The *Handbook of Research on International Consumer Law* is one of an extensive series of "Handbooks of Research" published by Edward Elgar. This volume is a very welcome addition to the series, and offers consumer and commercial law scholars much useful material and comment. One of its many attractions is the wide range of topics covered in its eighteen chapters. These can be broadly divided into three categories: (i) chapters which examine substantive issues of consumer law, such as product safety or the regulation of consumer credit; (ii) those which focus on the interaction of consumer law with other areas of law, such as human rights, the internet, and competition law; and (iii) those which provide theoretical and over-arching analyses of consumer protection, such as the introductory chapter on consumer law in its international dimension (which includes a historical overview), and the chapter on information rights and rational choice.

It is a noticeable trend in European consumer protection law that consumer protection can be achieved through empowering and informing consumers themselves. Whereas consumers in the UK benefit from specific substantive protections, such as the Sale of Goods Act, consumer protection in the European Union tends to focus on the informed consumer. This is done through ensuring that consumers have access to the information they (are presumed to) need in order to enter into a transaction and, where the trader fails to provide that information, the consumer is typically given rights to help redress the imbalance, such as an extended right of withdrawal. Accordingly, European directives such as the Distance Selling Directive, the E-Commerce Directive, and the Unfair Commercial Practices Directive, all focus on the need to provide consumers with information, to help them identify the trader (in the case of online transactions, for example) and to identify accurately the goods or services. Providing such information addresses the "information asymmetry", whereby there is an imperfect distribution of information, and consumers are thought to be at a disadvantage because they lack the information about the goods and market conditions which is available to the supplier. Consumers are treated however, perhaps optimistically, as intelligent and autonomous individuals, capable of using this information appropriately where it is provided. This is expressed through the benchmark of the "average consumer" being someone who is "reasonably well informed, reasonably observant and circumspect" (Directive 2005/29/EC concerning unfair business-to-consumer commercial transactions, para 18).

The significance and impact of the European approach is brought to the fore in the chapter by Christian Twigg-Flesner and Reiner Schulze, "Protecting rational choice: information and the right of withdrawal". The authors introduce the information asymmetry, and consider ways to remedy it, before analysing the limitations of the "information-based" approach to consumer protection. In particular, the authors draw attention to the difficulties of treating consumers alike, since they will be influenced by various social and cultural factors, such that

well-educated middle-class customers are better placed to deal with the flood of information provided (143). Accordingly, one size does not fit all, and the provision of information may only be of benefit to certain sections of the consumer population. Moreover, an approach which relies primarily on the provision of information fails to factor in the reality that consumers can only process limited amounts of information (144). Running alongside the authors' concerns regarding the utility of information for consumers, are their equally valid concerns about the difficulties for suppliers in providing such information, including the costs and the presentation of the information (138-140).

The final section of this chapter looks at the limitations of available remedies for consumers where the prescribed information is not provided (in addition to common law/non-Directive rights under contract). Of these, the strongest right for consumers is the right of withdrawal, but that too is not without its problems. Perhaps the most striking weakness of this remedy, as the authors point out, is that it is only available (for obvious reasons) where the consumer does enter into a contract as a result of the incorrect information provided. Where the consumer chooses *not* to enter into a contract, he may still suffer harm from the mis-information, but it is difficult to see what remedy he can have against the supplier in question, with whom he has no contract. This chapter is particularly enlightening for consumer lawyers raised in the Common Law tradition, since it highlights the rationale for and the weaknesses of the European approach to consumer protection and the imperative of tackling the information asymmetry. In reviewing the law, the authors are not tied to any one Directive, nor to any one jurisdiction, but provide a detailed comparative review which draws out core ideas and concerns.

The other chapters are typically more focused on specific issues, including, for example, misleading and unfair advertising (Angus MacCulloch); product safety regulation (Luke Nottage); consumer credit (Iain Ramsay); the Internet (Patrick Quirk and John A Rothchild); and financial services regulation (Dimitry Kingsford Smith). In total, the eighteen topics covered in this volume offer a wealth of insight into current issues in specific consumer fields. Although it is not possible to cover all eighteen chapters in one review, the high calibre of all the contributors ensures that there is much to be gained from this book. While the volume has a European bias, there are contributions from scholars from New Zealand, the USA, Australia and Malaysia. In particular, the chapter on class actions draws, as one might expect, on extensive American expertise. As this review should make clear, the *Handbook of Research on International Consumer Law* is an excellent addition to any library. It is particularly useful as a teaching resource, as well as a first port of call for the latest academic research in the field.

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**Mark Higgins, THE ENFORCEMENT OF HERITABLE SECURITIES**

Edinburgh: W Green ([www.wgreen.co.uk](http://www.wgreen.co.uk)), 2010. xxvii + 327 pp. ISBN 9780414017818. £75.

This is effectively the second edition of Mark Higgins original text entitled *Scottish Repossessions* (2002). As the title suggests the second edition focuses on the overall question of enforcement rather than simply repossession and sale. The enforcement of standard securities is one of the areas of law where social policy has had as much, if not a greater, effect than judicial decisions or legislation. When the first edition was published in 2002 the Mortgage Rights (Scotland) Act 2001 had just come into effect. It provided a discretionary power to the